THE HON'BLE SRI JUTICE C.V.RAMULU

WRIT PETITION No.20412 of 2000

Dated: 24.07.2006

Between:

K.Satyanarayana S/o Krishna Rao

... **PETITIONER**

And:

The A.P.Cooperative Tribunal,
Vijaywada, Krishna District, and others.

.... **RESPONDENTS**

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.20412 of 2000

ORDER:

This writ petition is filed seeing a certiorari to call for the records in O.A.No.16 of 1998 on the file of the A.P. Cooperative Tribunal, Vijayawada, confirming the orders passed by the second respondent in R.C.No.2735/1994 (BS.0.2) dated 21.04.1997, and to quash the same as illegal and arbitrary.

It seems the petitioner was the President of the third respondent Society. While conducting enquiry under Section 51 of the A.P. Cooperative Societies Act 1964 (for short "the Act"), it came to light that the petitioner had spent an amount of Rs.2,262/- on various counts, without prior permission of the General Body. Therefore, enquiry under Section 60 of the Act was conducted and surcharge proceedings were passed on 21.04.1997 fixing the responsibility on the petitioner for spending the said amount of Rs.2,262/- and directing him to pay the said amount with interest at 18% per annum. Aggrieved by the same, the petitioner filed O.A.No.16 of 1998 before the A.P.

Cooperative Tribunal, Vijayawada. The Tribunal confirmed the order passed by the surcharge authority. Aggrieved by the same, the present writ petition is filed.

There is no necessity of going into all the details. Absolutely, there is no dispute as to the spending of an amount of Rs.2,262/- by the petitioner on various counts, as indicated in the surcharge order. But, the only aspect that has to be considered is whether the petitioner has taken permission for spending the said amount for the purpose for which it was spent. The petitioner all through asserted that before spending the said amount, General Body met and passed a resolution permitting him to spend the said amount for the purpose for which it was spent i.e,. on the occasion of a visit of the District Officials to the 3rd respondent society. Neither the Surcharge Authority nor the Tribunal has verified this fact. Except holding that no such permission was obtained by the petitioner, the authorities have not verified the records nor it is their case that after verification of the record, such resolution is not available in the record. When once it is an admitted fact that the amount of Rs.2,262/- was actually spent by the petitioner on the occasion of the visit of the District Officials to the 3rd respondent society, initiating the present proceedings is nothing but harassing the petitioner without verifying the records. Therefore, writ petition has to be allowed.

Accordingly, the writ petition is allowed setting aside the surcharge order dated 21.04.1997, confirmed in O.A.No.16 of 1998 on the file of the A.P.Cooperative Tribunal. No order as to costs.

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24.07.2006

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